

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT OF 2002

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【Currency: This publication is a compilation of the text of title II of Public Law 107–372. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

SEC. 201. [33 U.S.C. 3001 note] SHORT TITLE.¹

This title may be cited as the “National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002”.

Subtitle A—General Provisions

SEC. 211. [33 U.S.C. 3001] COMMISSIONED OFFICER CORPS.

There shall be in the National Oceanic and Atmospheric Administration a commissioned officer corps.

SEC. 212. [33 U.S.C. 3002] DEFINITIONS.

(a) **APPLICABILITY OF DEFINITIONS IN TITLE 10, UNITED STATES CODE.**—Except as provided in subsection (b), the definitions pro-

¹The National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 replaced and repealed the Coast and Geodetic Survey Commissioned Officers’ Act of 1948 (Act of June 3, 1948; 33 U.S.C. 853a et seq.).

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vided in section 101 of title 10, United States Code, apply to the provisions of this title.

(b) **ADDITIONAL DEFINITIONS.**—In this title:

(1) **ACTIVE DUTY.**—The term “active duty” means full-time duty in the active service of a uniformed service.

(2) **GRADE.**—The term “grade” means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation.

(3) **OFFICER.**—The term “officer” means an officer of the commissioned corps.

(4) **OFFICER CANDIDATE.**—The term “officer candidate” means an individual who is enrolled in the basic officer training program of the Administration and is under consideration for appointment as an officer under section 221(a)(2)(A).

(5) **FLAG OFFICER.**—The term “flag officer” means an officer serving in, or having the grade of, vice admiral, rear admiral, or rear admiral (lower half).

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

(7) **ADMINISTRATION.**—The term “Administration” means the National Oceanic and Atmospheric Administration.

SEC. 213. [33 U.S.C. 3003] AUTHORIZED NUMBER ON THE ACTIVE LIST.

(a) **ANNUAL STRENGTH ON ACTIVE LIST.**—The annual strength of the commissioned corps in officers on the lineal list of active duty officers of the corps shall be prescribed by law.

(b) **LINEAL LIST.**—The Secretary shall maintain a list, known as the “lineal list”, of officers on active duty. Officers shall be carried on the lineal list by grade and, within grade, by seniority in grade.

SEC. 214. [33 U.S.C. 3004] STRENGTH AND DISTRIBUTION IN GRADE.

(a) **GRADES.**—The commissioned grades in the commissioned officer corps of the Administration are the following, in relative rank with officers of the Navy:

- (1) Vice admiral.
- (2) Rear admiral.
- (3) Rear admiral (lower half).
- (4) Captain.
- (5) Commander.
- (6) Lieutenant commander.
- (7) Lieutenant.
- (8) Lieutenant (junior grade).
- (9) Ensign.

(b) **GRADE DISTRIBUTION.**—The Secretary shall prescribe, with respect to the distribution on the lineal list in grade, the percentages applicable to the grades set forth in subsection (a).

(c) **ANNUAL COMPUTATION OF NUMBER IN GRADE.**—

(1) **IN GENERAL.**—Not less frequently than once each year, the Secretary shall make a computation to determine the number of officers on the lineal list authorized to be serving in each grade.

(2) **METHOD OF COMPUTATION.**—The number in each grade shall be computed by applying the applicable percentage to the

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total number of such officers serving on active duty on the date the computation is made.

(3) FRACTIONS.—If a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken. If the fraction is one-half, the next higher whole number shall be taken.

(d) TEMPORARY INCREASE IN NUMBERS.—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded if the average number on that list during that fiscal year does not exceed the authorized number.

(e) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Officers serving in positions designated under section 228(a) and officers recalled from retired status shall not be counted when computing authorized strengths under subsection (c) and shall not count against those strengths.

(f) PRESERVATION OF GRADE AND PAY.—No officer may be reduced in grade or pay or separated from the commissioned officer corps of the Administration as the result of a computation made to determine the authorized number of officers in the various grades.

SEC. 215. [33 U.S.C. 3005] NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

(a) IN GENERAL.—The total number of authorized commissioned officers on the lineal list of the commissioned officer corps of the Administration shall not exceed 500.

(b) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Officers serving in positions designated under section 228 and officers recalled from retired status or detailed to an agency other than the Administration—

(1) may not be counted in determining the total number of authorized officers on the lineal list under this section; and

(2) may not count against such number.

SEC. 216. [33 U.S.C. 3006] OBLIGATED SERVICE REQUIREMENT.

(a) IN GENERAL.—

(1) REGULATIONS.—The Secretary shall prescribe the obligated service requirements for appointments, training, promotions, separations, continuations, and retirements of officers not otherwise covered by law.

(2) WRITTEN AGREEMENTS.—The Secretary and officers shall enter into written agreements that describe the officers' obligated service requirements prescribed under paragraph (1) in return for such appointments, training, promotions, separations, continuations, and retirements as the Secretary considers appropriate.

(b) REPAYMENT FOR FAILURE TO SATISFY REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may require an officer who fails to meet the service requirements prescribed under subsection (a)(1) to reimburse the Secretary in an amount that bears the same ratio to the total costs of the training provided to that officer by the Secretary as the unserved portion of active duty bears to the total period of active duty the officer agreed to serve.

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(2) OBLIGATION AS DEBT TO UNITED STATES.—An obligation to reimburse the Secretary under paragraph (1) is, for all purposes, a debt owed to the United States.

(3) DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (a)(2) does not discharge the individual signing the agreement from a debt arising under such agreement.

(c) WAIVER OR SUSPENSION OF COMPLIANCE.—The Secretary may waive the service obligation of an officer who—

(1) becomes unqualified to serve on active duty in the commissioned officer corps of the Administration because of a circumstance not within the control of that officer; or

(2) is—

(A) not physically qualified for appointment; and

(B) determined to be unqualified for service in the commissioned officer corps of the Administration because of a physical or medical condition that was not the result of the officer's own misconduct or grossly negligent conduct.

SEC. 217. [33 U.S.C. 3007] TRAINING AND PHYSICAL FITNESS.

(a) TRAINING.—The Secretary may take such measures as may be necessary to ensure that officers are prepared to carry out their duties in the commissioned officer corps of the Administration and proficient in the skills necessary to carry out such duties. Such measures may include the following:

(1) Carrying out training programs and correspondence courses, including establishing and operating a basic officer training program to provide initial indoctrination and maritime vocational training for officer candidates as well as refresher training, mid-career training, aviation training, and such other training as the Secretary considers necessary for officer development and proficiency.

(2) Providing officers and officer candidates with educational materials.

(3) Acquiring such equipment as may be necessary for training and instructional purposes.

(b) PHYSICAL FITNESS.—The Secretary shall ensure that officers maintain a high physical state of readiness by establishing standards of physical fitness for officers that are substantially equivalent to those prescribed for officers in the Coast Guard.

SEC. 218. [33 U.S.C. 3008] AVIATION ACCESSION TRAINING PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Under Secretary of Commerce for Oceans and Atmosphere and the Administrator of the National Oceanic and Atmospheric Administration.

(2) MEMBER OF THE PROGRAM.—The term “member of the program” means a student who is enrolled in the program.

(3) PROGRAM.—The term “program” means an aviation accession training program of the commissioned officer corps of the Administration established pursuant to subsection (b).

(b) AVIATION ACCESSION TRAINING PROGRAMS.—

(1) ESTABLISHMENT AUTHORIZED.—The Administrator, under regulations prescribed by the Secretary, shall establish and maintain one or more aviation accession training programs for the commissioned officer corps of the Administration at institutions described in paragraph (2).

(2) INSTITUTIONS DESCRIBED.—An institution described in this paragraph is an educational institution—

(A) that requests to enter into an agreement with the Administrator providing for the establishment of the program at the institution;

(B) that has, as a part of its curriculum, a four-year baccalaureate program of professional flight and piloting instruction that is accredited by the Aviation Accreditation Board International;

(C) that is located in a geographic area that—

(i) experiences a wide variation in climate-related activity, including frequent high winds, convective activity (including tornadoes), periods of low visibility, heat, and snow and ice episodes, to provide opportunities for pilots to demonstrate skill in all weather conditions compatible with future encounters during their service in the commissioned officer corps of the Administration; and

(ii) has a climate that can accommodate both primary and advanced flight training activity at least 75 percent of the year; and

(D) at which the Administrator determines that—

(i) there will be at least one student enrolled in the program; and

(ii) the provisions of this section are otherwise satisfied.

(3) LIMITATIONS IN CONNECTION WITH PARTICULAR INSTITUTIONS.—The program may not be established or maintained at an institution unless—

(A) the senior commissioned officer or employee of the commissioned officer corps of the Administration who is assigned as an advisor to the program at that institution is given the academic rank of adjunct professor; and

(B) the institution fulfills the terms of its agreement with the Administrator.

(4) MEMBERSHIP IN CONNECTION WITH STATUS AS STUDENT.—At institutions at which the program is established, the membership of students in the program shall be elective, as provided by State law or the authorities of the institution concerned.

(c) MEMBERSHIP.—

(1) ELIGIBILITY.—To be eligible for membership in the program, an individual must—

(A) be a student at an institution at which the program is established;

(B) be a citizen of the United States;

(C) contract in writing, with the consent of a parent or guardian if a minor, with the Administrator, to—

(i) accept an appointment, if offered, as a commissioned officer in the commissioned officer corps of the Administration; and

(ii) serve in the commissioned officer corps of the Administration for not fewer than four years;

(D) enroll in—

(i) a four-year baccalaureate program of professional flight and piloting instruction; and

(ii) other training or education, including basic officer training, which is prescribed by the Administrator as meeting the preliminary requirement for admission to the commissioned officer corps of the Administration; and

(E) execute a certificate or take an oath relating to morality and conduct in such form as the Administrator prescribes.

(2) COMPLETION OF PROGRAM.—A member of the program may be appointed as a regular officer in the commissioned officer corps of the Administration if the member meets all requirements for appointment as such an officer.

(d) FINANCIAL ASSISTANCE FOR QUALIFIED MEMBERS.—

(1) EXPENSES OF COURSE OF INSTRUCTION.—

(A) IN GENERAL.—In the case of a member of the program who meets such qualifications as the Administrator establishes for purposes of this subsection, the Administrator may pay the expenses of the member in connection with pursuit of a course of professional flight and piloting instruction under the program, including tuition, fees, educational materials such as books, training, certifications, travel, and laboratory expenses.

(B) ASSISTANCE AFTER FOURTH ACADEMIC YEAR.—In the case of a member of the program described in subparagraph (A) who is enrolled in a course described in that subparagraph that has been approved by the Administrator and requires more than four academic years for completion, including elective requirements of the program, assistance under this subsection may also be provided during a fifth academic year or during a combination of a part of a fifth academic year and summer sessions.

(2) ROOM AND BOARD.—In the case of a member eligible to receive assistance under paragraph (1), the Administrator may, in lieu of payment of all or part of such assistance, pay the room and board expenses of the member, and other educational expenses, of the educational institution concerned.

(3) FAILURE TO COMPLETE PROGRAM OR ACCEPT COMMISSION.—A member of the program who receives assistance under this subsection and who does not complete the course of instruction, or who completes the course but declines to accept a commission in the commissioned officer corps of the Administration when offered, shall be subject to the repayment provisions of subsection (e).

(e) REPAYMENT OF UNEARNED PORTION OF FINANCIAL ASSISTANCE WHEN CONDITIONS OF PAYMENT NOT MET.—

(1) IN GENERAL.—A member of the program who receives or benefits from assistance under subsection (d), and whose receipt of or benefit from such assistance is subject to the condition that the member fully satisfy the requirements of subsection (c), shall repay to the United States an amount equal to the assistance received or benefitted from if the member fails to fully satisfy such requirements and may not receive or benefit from any unpaid amounts of such assistance after the member fails to satisfy such requirements, unless the Administrator determines that the imposition of the repayment requirement and the termination of payment of unpaid amounts of such assistance with regard to the member would be—

(A) contrary to a personnel policy or management objective;

(B) against equity and good conscience; or

(C) contrary to the best interests of the United States.

(2) REGULATIONS.—The Administrator may establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to repayment may be granted. The Administrator may specify in the regulations the conditions under which financial assistance to be paid to a member of the program will not be made if the member no longer satisfies the requirements in subsection (c) or qualifications in subsection (d) for such assistance.

(3) OBLIGATION AS DEBT TO UNITED STATES.—An obligation to repay the United States under this subsection is, for all purposes, a debt owed to the United States.

SEC. 219. [33 U.S.C. 3009] USE OF RECRUITING MATERIALS FOR PUBLIC RELATIONS.

The Secretary may use for public relations purposes of the Department of Commerce any advertising materials developed for use for recruitment and retention of personnel for the commissioned officer corps of the Administration. Any such use shall be under such conditions and subject to such restrictions as the Secretary shall prescribe.

Subtitle B—Appointment and Promotion of Officers

SEC. 221. [33 U.S.C. 3021] ORIGINAL APPOINTMENTS AND REAPPOINTMENTS.

(a) ORIGINAL APPOINTMENTS.—

(1) GRADES.—

(A) IN GENERAL.—Except as provided in subparagraph

(B), an original appointment of an officer may be made in such grades as may be appropriate for—

(i) the qualification, experience, and length of service of the appointee; and

(ii) the commissioned officer corps of the Administration.

(B) APPOINTMENT OF OFFICER CANDIDATES.—

(i) LIMITATION ON GRADE.—An original appointment of an officer candidate, upon graduation from the basic officer training program of the commissioned of-

ficer corps of the Administration, may not be made in any other grade than ensign.

(ii) RANK.—Officer candidates receiving appointments as ensigns upon graduation from the basic officer training program shall take rank according to their proficiency as shown by the order of their merit at date of graduation.

(2) SOURCE OF APPOINTMENTS.—An original appointment may be made from among the following:

(A) Graduates of the basic officer training program of the commissioned officer corps of the Administration.

(B) Subject to the approval of the Secretary of Defense, graduates of the military service academies of the United States who otherwise meet the academic standards for enrollment in the training program described in subparagraph (A).

(C) Graduates of the State maritime academies who—

(i) otherwise meet the academic standards for enrollment in the training program described in subparagraph (A);

(ii) completed at least three years of regimented training while at a State maritime academy; and

(iii) obtained an unlimited tonnage or unlimited horsepower Merchant Mariner Credential from the United States Coast Guard.

(D) Licensed officers of the United States merchant marine who have served two or more years aboard a vessel of the United States in the capacity of a licensed officer, who otherwise meet the academic standards for enrollment in the training program described in subparagraph (A).

(3) DEFINITIONS.—In this subsection:

(A) MILITARY SERVICE ACADEMIES OF THE UNITED STATES.—The term “military service academies of the United States” means the following:

(i) The United States Military Academy, West Point, New York.

(ii) The United States Naval Academy, Annapolis, Maryland.

(iii) The United States Air Force Academy, Colorado Springs, Colorado.

(iv) The United States Coast Guard Academy, New London, Connecticut.

(v) The United States Merchant Marine Academy, Kings Point, New York.

(B) STATE MARITIME ACADEMY.—The term “State maritime academy” has the meaning given the term in section 51102 of title 46, United States Code.

(b) REAPPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual who previously served in the commissioned officer corps of the Administration may be appointed by the Secretary to the grade the individual held prior to separation.

(2) REAPPOINTMENTS TO HIGHER GRADES.—An appointment under paragraph (1) to a position of importance and responsi-

bility designated under section 228 may only be made by the President.

(c) **QUALIFICATIONS.**—An appointment under subsection (a) or (b) may not be given to an individual until the individual's mental, moral, physical, and professional fitness to perform the duties of an officer has been established under such regulations as the Secretary shall prescribe.

(d) **ORDER OF PRECEDENCE.**—Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. The order of precedence of appointees whose dates of commission are the same shall be determined by the Secretary.

(e) **INTER-SERVICE TRANSFERS.**—For inter-service transfers (as described in Department of Defense Directive 1300.4 (dated December 27, 2006)) the Secretary shall—

(1) coordinate with the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating to promote and streamline inter-service transfers;

(2) give preference to such inter-service transfers for recruitment purposes as determined appropriate by the Secretary; and

(3) reappoint such inter-service transfers to the equivalent grade in the commissioned officer corps of the Administration.

SEC. 222. [33 U.S.C. 3022] PERSONNEL BOARDS.

(a) **CONVENING.**—Not less frequently than once each year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—A board convened under subsection (a) shall consist of five or more officers who are serving in or above the permanent grade of the officers under consideration by the board.

(2) **RETIRED OFFICERS.**—Officers on the retired list may be recalled to serve on such personnel boards as the Secretary considers necessary.

(3) **NO MEMBERSHIP ON TWO SUCCESSIVE BOARDS.**—No officer may be a member of two successive personnel boards convened to consider officers of the same grade for promotion or separation.

(c) **DUTIES.**—Each personnel board shall—

(1) recommend to the Secretary such changes as may be necessary to correct any erroneous position on the lineal list that was caused by administrative error; and

(2) make selections and recommendations to the Secretary and the President for the appointment, promotion, involuntary separation, continuation, and involuntary retirement of officers in the commissioned officer corps of the Administration as prescribed in this title.

(d) **ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.**—If any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as the Secretary or the President considers appropriate.

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(e) AUTHORITY FOR OFFICERS TO OPT OUT OF PROMOTION CONSIDERATION.—

(1) IN GENERAL.—The Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps may provide that an officer, upon the officer's request and with the approval of the Director, be excluded from consideration for promotion by a personnel board convened under this section.

(2) APPROVAL.—The Director shall approve a request made by an officer under paragraph (1) only if—

(A) the basis for the request is to allow the officer to complete a broadening assignment, advanced education, another assignment of significant value to the Administration, a career progression requirement delayed by the assignment or education, or a qualifying personal or professional circumstance, as determined by the Director;

(B) the Director determines the exclusion from consideration is in the best interest of the Administration; and

(C) the officer has not previously failed selection for promotion to the grade for which the officer requests the exclusion from consideration.

SEC. 223. [33 U.S.C. 3023] PROMOTION OF ENSIGNS TO GRADE OF LIEUTENANT (JUNIOR GRADE).

(a) IN GENERAL.—An officer in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) upon completion of three years of service. The authorized number of officers in the grade of lieutenant (junior grade) shall be temporarily increased as necessary to authorize such appointment.

(b) SEPARATION OF ENSIGNS FOUND NOT FULLY QUALIFIED.—If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer's commission shall be revoked and the officer shall be separated from the commissioned service.

SEC. 224. [33 U.S.C. 3024] PROMOTION BY SELECTION TO PERMANENT GRADES ABOVE LIEUTENANT (JUNIOR GRADE).

Promotion to fill vacancies in each permanent grade above the grade of lieutenant (junior grade) shall be made by selection from the next lower grade upon recommendation of the personnel board.

SEC. 225. [33 U.S.C. 3025] LENGTH OF SERVICE FOR PROMOTION PURPOSES.

(a) GENERAL RULE.—Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any other officer below that officer on the lineal list.

(b) EXCEPTION.—Notwithstanding subsection (a), an officer who has lost numbers shall be assumed to have, for promotion purposes, no greater service than the officer next above such officer in such officer's new position on the lineal list.

SEC. 226. [33 U.S.C. 3026] APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.

Appointments in and promotions to all permanent grades shall be made by the President.

SEC. 227. [33 U.S.C. 3027] GENERAL QUALIFICATION OF OFFICERS FOR PROMOTION TO HIGHER PERMANENT GRADE.

No officer may be promoted to a higher permanent grade on the active list until the officer has passed a satisfactory mental and

physical examination in accordance with regulations prescribed by the Secretary.

SEC. 228. [33 U.S.C. 3028] POSITIONS OF IMPORTANCE AND RESPONSIBILITY.

(a) DESIGNATION OF POSITIONS.—The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half), as designated by the Secretary for each position.

(b) ASSIGNMENT OF OFFICERS TO DESIGNATED POSITIONS.—The Secretary may assign officers to positions designated under subsection (a).

(c) DIRECTOR OF NOAA CORPS AND OFFICE OF MARINE AND AVIATION OPERATIONS.—The President shall designate one position as responsible for oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps. The President shall fill that position by appointing, by and with the advice and consent of the Senate, an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps. For the specific purpose of administering the vessel and aircraft fleets, that position shall carry the title of Director of the Office of Marine and Aviation Operations.

(d) GRADE.—

(1) TEMPORARY APPOINTMENT TO GRADE DESIGNATED FOR POSITION.—An officer assigned to a position under this section while so serving has the grade designated for that position, if appointed to that grade by the President.

(2) REVERSION TO PERMANENT GRADE.—An officer who has served in a grade above captain, upon termination of the officer's assignment to the position for which that appointment was made, shall, unless appointed or assigned to another position for which a higher grade is designated or immediately beginning a period of terminal leave, revert to the grade and number the officer would have occupied but for serving in a grade above that of captain. In such a case, the officer shall be an extra number in that grade.

(e) LIMIT ON NUMBER OF OFFICERS APPOINTED.—The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed five, with only one serving in the grade of vice admiral.

(f) PAY AND ALLOWANCES.—An officer appointed to a grade under this section, while serving in that grade or in a period of annual leave used at the end of the appointment, shall have the pay and allowances of the grade to which appointed.

(g) EFFECT OF APPOINTMENT.—An appointment of an officer under this section—

(1) does not vacate the permanent grade held by the officer; and

(2) creates a vacancy on the active list.

13 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION C... Sec. 231**SEC. 229. [33 U.S.C. 3029] TEMPORARY APPOINTMENTS.**

(a) **APPOINTMENTS BY PRESIDENT.**—Temporary appointments in the grade of ensign, lieutenant junior grade, or lieutenant may be made by the President.

(b) **TERMINATION.**—A temporary appointment to a position under subsection (a) shall terminate upon approval of a permanent appointment for such position made by the President.

(c) **ORDER OF PRECEDENCE.**—Appointees under subsection (a) shall take precedence in the grade to which appointed in accordance with the dates of their appointments as officers in such grade. The order of precedence of appointees who are appointed on the same date shall be determined by the Secretary.

(d) **ANY ONE GRADE.**—When determined by the Secretary to be in the best interest of the commissioned officer corps of the Administration, officers in any permanent grade may be temporarily promoted one grade by the President. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

SEC. 230. [33 U.S.C. 3030] TEMPORARY APPOINTMENT OR ADVANCEMENT OF COMMISSIONED OFFICERS IN TIME OF WAR OR NATIONAL EMERGENCY.

(a) **IN GENERAL.**—Officers of the Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency.

(b) **LIMITATIONS.**—Subsection (a) shall be applied subject to the following limitations:

(1) A commissioned officer in the service of a military department under section 251 may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to a higher rank or grade.

(2) A commissioned officer in the service of the Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under section 251.

(3) Temporary appointments may be made in all grades to which original appointments in the Administration are authorized, except that the number of officers holding temporary appointments may not exceed the number of officers transferred to a military department under section 251.

SEC. 231. [33 U.S.C. 3031] PAY AND ALLOWANCES; DATE OF ACCEPTANCE OF PROMOTION.

(a) **ACCEPTANCE AND DATE OF PROMOTION.**—An officer of the commissioned corps who is promoted to a higher grade—

(1) is deemed for all purposes to have accepted the promotion upon the date the promotion is made by the President, unless the officer expressly declines the promotion; and

(2) shall receive the pay and allowances of the higher grade from that date unless the officer is entitled under another provision of law to receive the pay and allowances of the higher grade from an earlier date.

(b) **OATH OF OFFICE.**—An officer who subscribed to the oath of office required by section 3331 of title 5, United States Code, shall

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not be required to renew such oath or to take a new oath upon promotion to a higher grade, if the service of the officer after the taking of such oath is continuous.

SEC. 232. [33 U.S.C. 3032] SERVICE CREDIT AS DECK OFFICER OR JUNIOR ENGINEER FOR PROMOTION PURPOSES.

For purposes of promotion, there shall be counted in addition to active commissioned service, service as deck officer or junior engineer.

SEC. 233. [33 U.S.C. 3033] SUSPENSION DURING WAR OR EMERGENCY.

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in the President's discretion, to suspend the operation of all or any part of the provisions of law pertaining to promotion of commissioned officers of the Administration.

SEC. 234. [33 U.S.C. 3034] OFFICER CANDIDATES.

(a) DETERMINATION OF NUMBER.—The Secretary shall determine the number of appointments of officer candidates.

(b) APPOINTMENT.—Appointment of officer candidates shall be made under regulations, which the Secretary shall prescribe, including regulations with respect to determining age limits, methods of selection of officer candidates, term of service as an officer candidate before graduation from the basic officer training program of the Administration, and all other matters affecting such appointment.

(c) DISMISSAL.—The Secretary may dismiss from the basic officer training program of the Administration any officer candidate who, during the officer candidate's term as an officer candidate, the Secretary considers unsatisfactory in either academics or conduct, or not adapted for a career in the commissioned officer corps of the Administration. Officer candidates shall be subject to rules governing discipline prescribed by the Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

(d) AGREEMENT.—

(1) IN GENERAL.—Each officer candidate shall sign an agreement with the Secretary in accordance with section 216(a)(2) regarding the officer candidate's term of service in the commissioned officer corps of the Administration.

(2) ELEMENTS.—An agreement signed by an officer candidate under paragraph (1) shall provide that the officer candidate agrees to the following:

(A) That the officer candidate will complete the course of instruction at the basic officer training program of the Administration.

(B) That upon graduation from such program, the officer candidate—

(i) will accept an appointment, if tendered, as an officer; and

(ii) will serve on active duty for at least four years immediately after such appointment.

(e) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. Such regulations shall include—

(1) standards for determining what constitutes a breach of an agreement signed under subsection (d)(1); and

(2) procedures for determining whether such a breach has occurred.

(f) REPAYMENT.—An officer candidate or former officer candidate who does not fulfill the terms of the obligation to serve as specified under subsection (d) shall be subject to the repayment provisions of section 216(b).

SEC. 235. [33 U.S.C. 3035] PROCUREMENT OF PERSONNEL.

The Secretary may take such measures as the Secretary determines necessary in order to obtain recruits for the commissioned officer corps of the Administration, including advertising.

SEC. 236. [33 U.S.C. 3036] CAREER FLEXIBILITY TO ENHANCE RETENTION OF OFFICERS.

(a) PROGRAMS AUTHORIZED.—The Secretary may carry out a program under which officers may be inactivated from active duty in order to meet personal or professional needs and returned to active duty at the end of such period of inactivation from active duty.

(b) PERIOD OF INACTIVATION FROM ACTIVE DUTY; EFFECT OF INACTIVATION.—

(1) IN GENERAL.—The period of inactivation from active duty under a program under this section of an officer participating in the program shall be such period as the Secretary shall specify in the agreement of the officer under subsection (c), except that such period may not exceed three years.

(2) EXCLUSION FROM RETIREMENT.—Any period of participation of an officer in a program under this section shall not count toward eligibility for retirement or computation of retired pay under subtitle C.

(c) AGREEMENT.—Each officer who participates in a program under this section shall enter into a written agreement with the Secretary under which that officer shall agree as follows:

(1) To undergo during the period of the inactivation of the officer from active duty under the program such inactive duty training as the Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps shall require in order to ensure that the officer retains proficiency, at a level determined by the Director to be sufficient, in the technical skills, professional qualifications, and physical readiness of the officer during the inactivation of the officer from active duty.

(2) Following completion of the period of the inactivation of the officer from active duty under the program, to serve two months on active duty for each month of the period of the inactivation of the officer from active duty under the program.

(d) CONDITIONS OF RELEASE.—The Secretary shall—

(1) prescribe regulations specifying the guidelines regarding the conditions of release that must be considered and addressed in the agreement required by subsection (c); and

(2) at a minimum, prescribe the procedures and standards to be used to instruct an officer on the obligations to be assumed by the officer under paragraph (1) of such subsection while the officer is released from active duty.

(e) ORDER TO ACTIVE DUTY.—Under regulations prescribed by the Secretary, an officer participating in a program under this sec-

tion may, in the discretion of the Secretary, be required to terminate participation in the program and be ordered to active duty.

(f) PAY AND ALLOWANCES.—

(1) BASIC PAY.—During each month of participation in a program under this section, an officer who participates in the program shall be paid basic pay in an amount equal to two-thirtieths of the amount of monthly basic pay to which the officer would otherwise be entitled under section 204 of title 37, United States Code, as a member of the uniformed services on active duty in the grade and years of service of the officer when the officer commences participation in the program.

(2) SPECIAL OR INCENTIVE PAY OR BONUS.—

(A) PROHIBITION.—An officer who participates in a program under this section shall not, while participating in the program, be paid any special or incentive pay or bonus to which the officer is otherwise entitled under an agreement under chapter 5 of title 37, United States Code, that is in force when the officer commences participation in the program.

(B) NOT TREATED AS FAILURE TO PERFORM SERVICES.—The inactivation from active duty of an officer participating in a program under this section shall not be treated as a failure of the officer to perform any period of service required of the officer in connection with an agreement for a special or incentive pay or bonus under chapter 5 of title 37, United States Code, that is in force when the officer commences participation in the program.

(3) RETURN TO ACTIVE DUTY.—

(A) SPECIAL OR INCENTIVE PAY OR BONUS.—Subject to subparagraph (B), upon the return of an officer to active duty after completion by the officer of participation in a program under this section—

(i) any agreement entered into by the officer under chapter 5 of title 37, United States Code, for the payment of a special or incentive pay or bonus that was in force when the officer commenced participation in the program shall be revived, with the term of such agreement after revival being the period of the agreement remaining to run when the officer commenced participation in the program; and

(ii) any special or incentive pay or bonus shall be payable to the officer in accordance with the terms of the agreement concerned for the term specified in clause (i).

(B) LIMITATION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to any special or incentive pay or bonus otherwise covered by that subparagraph with respect to an officer if, at the time of the return of the officer to active duty as described in that subparagraph—

(I) such pay or bonus is no longer authorized by law; or

(II) the officer does not satisfy eligibility criteria for such pay or bonus as in effect at the time of the return of the officer to active duty.

(ii) PAY OR BONUS CEASES BEING AUTHORIZED.—Subparagraph (A) shall cease to apply to any special or incentive pay or bonus otherwise covered by that subparagraph with respect to an officer if, during the term of the revived agreement of the officer under subparagraph (A)(i), such pay or bonus ceases being authorized by law.

(C) REPAYMENT.—An officer who is ineligible for payment of a special or incentive pay or bonus otherwise covered by this paragraph by reason of subparagraph (B)(i)(II) shall be subject to the requirements for repayment of such pay or bonus in accordance with the terms of the applicable agreement of the officer under chapter 5 of title 37, United States Code.

(D) REQUIRED SERVICE IS ADDITIONAL.—Any service required of an officer under an agreement covered by this paragraph after the officer returns to active duty as described in subparagraph (A) shall be in addition to any service required of the officer under an agreement under subsection (c).

(4) TRAVEL AND TRANSPORTATION ALLOWANCE.—

(A) IN GENERAL.—Subject to subparagraph (B), an officer who participates in a program under this section is entitled, while participating in the program, to the travel and transportation allowances authorized by section 452 of title 37, United States Code, for—

(i) travel performed from the residence of the officer, at the time of release from active duty to participate in the program, to the location in the United States designated by the officer as the officer's residence during the period of participation in the program; and

(ii) travel performed to the residence of the officer upon return to active duty at the end of the participation of the officer in the program.

(B) SINGLE RESIDENCE.—An allowance is payable under this paragraph only with respect to travel of an officer to and from a single residence.

(5) LEAVE BALANCE.—An officer who participates in a program under this section is entitled to carry forward the leave balance existing as of the day on which the officer begins participation and accumulated in accordance with section 701 of title 10, United States Code, but not to exceed 60 days.

(g) PROMOTION.—

(1) IN GENERAL.—An officer participating in a program under this section shall not, while participating in the program, be eligible for consideration for promotion under subtitle B.

(2) RETURN TO SERVICE.—Upon the return of an officer to active duty after completion by the officer of participation in a program under this section—

(A) the Secretary may adjust the date of rank of the officer in such manner as the Secretary shall prescribe in regulations for purposes of this section; and

(B) the officer shall be eligible for consideration for promotion when officers of the same competitive category, grade, and seniority are eligible for consideration for promotion.

(h) CONTINUED ENTITLEMENTS.—An officer participating in a program under this section shall, while participating in the program, be treated as a member of the uniformed services on active duty for a period of more than 30 days for purposes of—

(1) the entitlement of the officer and of the dependents of the officer to medical and dental care under the provisions of chapter 55 of title 10, United States Code; and

(2) retirement or separation for physical disability under the provisions of subtitle C.

Subtitle C—Separation and Retirement of Officers

SEC. 241. [33 U.S.C. 3041] INVOLUNTARY RETIREMENT OR SEPARATION.

(a) TRANSFER OF OFFICERS TO RETIRED LIST; SEPARATION FROM SERVICE.—As recommended by a personnel board convened under section 222—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

(b) COMPUTATIONS.—In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

(c) EFFECTIVE DATE OF RETIREMENTS AND SEPARATIONS.—A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

(d) DEFERMENT OF RETIREMENT OR SEPARATION FOR MEDICAL REASONS.—

(1) IN GENERAL.—If the Secretary determines that the evaluation of the medical condition of an officer requires hospitalization or medical observation that cannot be completed with confidence in a manner consistent with the officer's well-being before the date on which the officer would otherwise be required to retire or be separated under this section, the Secretary may defer the retirement or separation of the officer.

(2) CONSENT REQUIRED.—A deferment may only be made with the written consent of the officer involved. If the officer does not provide written consent to the deferment, the officer shall be retired or separated as scheduled.

(3) LIMITATION.—A deferment of retirement or separation under this subsection may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.

SEC. 242. [33 U.S.C. 3042] SEPARATION PAY.

(a) AUTHORIZATION OF PAYMENT.—An officer who is separated under section 241(a)(2) and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

(b) AMOUNT OF SEPARATION PAY.—

(1) SIX OR MORE YEARS.—In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

(2) THREE TO SIX YEARS.—In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

(c) OTHER CONDITIONS, REQUIREMENTS, AND ADMINISTRATIVE PROVISIONS.—The provisions of subsections (f), (g), and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

(d) EXCEPTION.—An officer discharged for twice failing selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer—

(1) expresses a desire not to be selected for promotion; or
(2) requests removal from the list of selectees.

SEC. 243. [33 U.S.C. 3043] MANDATORY RETIREMENT FOR AGE.

(a) OFFICERS BELOW GRADE OF REAR ADMIRAL (LOWER HALF).—Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) FLAG OFFICERS.—Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

SEC. 244. [33 U.S.C. 3044] RETIREMENT FOR LENGTH OF SERVICE.

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any

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time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

SEC. 245. [33 U.S.C. 3045] COMPUTATION OF RETIRED PAY.

(a) OFFICERS FIRST BECOMING MEMBERS BEFORE SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

(b) OFFICERS FIRST BECOMING MEMBERS ON OR AFTER SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10, United States Code; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

(c) TREATMENT OF FULL AND FRACTIONAL PARTS OF MONTHS IN COMPUTING YEARS OF SERVICE.—

(1) IN GENERAL.—In computing the number of years of service of an officer for the purposes of subsection (a)—

(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as $\frac{1}{12}$ of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) ROUNDING.—Retired pay computed under this section, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

SEC. 246. [33 U.S.C. 3046] RETIRED GRADE AND RETIRED PAY.

Each officer retired pursuant to law shall be placed on the retired list with the highest grade satisfactorily held by that officer while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and shall receive retired pay based on such highest grade, if—

(1) the officer's performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served; and

(2) unless retired for disability, the officer's length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

21 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION C... Sec. 251**SEC. 247. [33 U.S.C. 3047] RETIRED RANK AND PAY HELD PURSUANT TO OTHER LAWS UNAFFECTED.**

Nothing in this subtitle shall prevent an officer from being placed on the retired list with the highest rank and with the highest retired pay to which the officer is entitled under any other provision of law.

SEC. 248. [33 U.S.C. 3048] CONTINUATION ON ACTIVE DUTY; DEFERRAL OF RETIREMENT.

The provisions of subchapter IV of chapter 36 of title 10, United States Code, relating to continuation on active duty and deferral of retirement shall apply to commissioned officers of the Administration.

SEC. 249. [33 U.S.C. 3049] RECALL TO ACTIVE DUTY.

The provisions of chapter 39 of title 10, United States Code, relating to recall of retired officers to active duty, including the limitations on such recalls, shall apply to commissioned officers of the Administration.

**Subtitle D—Service of Officers With the Military
Departments**

SEC. 251. [33 U.S.C. 3061] COOPERATION WITH AND TRANSFER TO MILITARY DEPARTMENTS.**(a) TRANSFERS OF RESOURCES AND OFFICERS DURING NATIONAL EMERGENCY.—**

(1) **TRANSFERS AUTHORIZED.**—The President may, whenever in the judgment of the President a sufficient national emergency exists, transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and officers of the Administration as the President considers to be in the best interest of the country.

(2) **RESPONSIBILITY FOR FUNDING OF TRANSFERRED RESOURCES AND OFFICERS.**—After any such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which the transfer is made.

(3) **RETURN OF TRANSFERRED RESOURCES AND OFFICERS.**—Such transferred vessels, equipment, stations, and officers shall be returned to the Administration when the national emergency ceases, in the opinion of the President.

(4) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as transferring the Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent provided in this section.

(b) **LIMITATION ON TRANSFER OF OFFICERS.**—This section does not authorize the transfer of an officer of the Administration to a military department if the accession or retention of that officer in that military department is otherwise not authorized by law.

(c) **STATUS OF TRANSFERRED OFFICERS.**—An officer of the Administration transferred under this section, shall, while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention

permanently in the military service of the United States is not contemplated by law.

SEC. 252. [33 U.S.C. 3062] RELATIVE RANK OF OFFICERS WHEN SERVING WITH ARMY, NAVY, OR AIR FORCE.

When serving with the Army, Navy, or Air Force, an officer of the Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade. Nothing in this subtitle shall be construed to affect or alter an officer's rates of pay and allowances when not assigned to military duty.

SEC. 253. [33 U.S.C. 3063] RULES AND REGULATIONS WHEN COOPERATING WITH MILITARY DEPARTMENTS.

(a) JOINT REGULATIONS.—The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations—

(1) governing the duties to be performed by the Administration in time of war; and

(2) providing for the cooperation of the Administration with the military departments in time of peace in preparation for its duties in time of war.

(b) APPROVAL.—Regulations under subsection (a) shall not be effective unless approved by each of those Secretaries.

(c) COMMUNICATIONS.—Regulations under subsection (a) may provide procedures for making reports and communications between a military department and the Administration.

Subtitle E—Rights and Benefits

SEC. 261. [33 U.S.C. 3071] APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10, UNITED STATES CODE.

(a) PROVISIONS MADE APPLICABLE TO THE CORPS.—The rules of law that apply to the Armed Forces under the following provisions of title 10, United States Code, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

(1) Chapter 40, relating to leave.

(2) Section 533(b), relating to constructive service.

(3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.

(4) Section 771, relating to unauthorized wearing of uniforms.

(5) Section 774, relating to wearing religious apparel while in uniform.

(6) Section 982, relating to service on State and local juries.

(7) Section 1031, relating to administration of oaths.

(8) Section 1034, relating to protected communications and prohibition of retaliatory personnel actions.

(9) Section 1035, relating to deposits of savings.

(10) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.

(11) Section 1052, relating to reimbursement for adoption expenses.

(12) Section 1074n, relating to annual mental health assessments.

(13) Section 1090a, relating to referrals for mental health evaluations.

(14) Chapter 58, relating to the Benefits and Services for members being separated or recently separated.

(15) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).

(16) Chapter 61, relating to retirement or separation for physical disability.

(17) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.

(18) Chapter 71, relating to computation of retired pay.

(19) Chapter 73, relating to annuities based on retired or retainer pay.

(20) Subchapter II of chapter 75, relating to death benefits.

(21) Subchapter I of chapter 88, relating to Military Family Programs, applicable on an as-available and fully reimbursable basis.

(22) Section 2005, relating to advanced education assistance, active duty agreements, and reimbursement requirements.

(23) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

(24) Sections 2731 and 2735, relating to property loss incident to service.

(25) Section 2771, relating to final settlement of accounts of deceased members.

(26) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10, United States Code, in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee. For purposes of paragraph (8) of subsection (a), the term “Inspector General” in section 1034 of such title 10 shall mean the Inspector General of the Department of Commerce.

(c) REGULATIONS REGARDING PROTECTED COMMUNICATIONS AND PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.—The Secretary may prescribe regulations to carry out the application of section 1034 of title 10, United States Code, to the commissioned officer corps of the Administration, including by prescribing such administrative procedures for investigation and appeal within the commissioned officer corps as the Secretary considers appropriate.

Sec. 261A NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION C...**24****SEC. 261A. [33 U.S.C. 3071a] APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 37, UNITED STATES CODE.**

The provisions of law applicable to the Armed Forces under the following provisions of title 37, United States Code, shall apply to the commissioned officer corps of the Administration:

- (1) Section 403(l), relating to temporary continuation of housing allowance for dependents of members dying on active duty.
- (2) Section 415, relating to initial uniform allowances.
- (3) Section 488, relating to allowances for recruiting expenses.

SEC. 262. [33 U.S.C. 3072] ELIGIBILITY FOR VETERANS BENEFITS AND OTHER RIGHTS, PRIVILEGES, IMMUNITIES, AND BENEFITS UNDER CERTAIN PROVISIONS OF LAW.

(a) IN GENERAL.—Active service of officers of the Administration shall be deemed to be active military service for the purposes of all rights, privileges, immunities, and benefits under the following:

- (1) Laws administered by the Secretary of Veterans Affairs.
- (2) The Servicemembers Civil Relief Act.
- (3) Section 210 of the Social Security Act (42 U.S.C. 410), as in effect before September 1, 1950.

(b) EXERCISE OF AUTHORITY.—In the administration of the laws and regulations referred to in subsection (a), with respect to the Administration, the authority vested in the Secretary of Defense and the Secretaries of the military departments and their respective departments shall be exercised by the Secretary of Commerce.

SEC. 263. [33 U.S.C. 3073] MEDICAL AND DENTAL CARE.

The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.

SEC. 264. [33 U.S.C. 3074] COMMISSARY PRIVILEGES.

(a) EXTENSION OF PRIVILEGE.—Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the Armed Forces at the prices charged officers and enlisted members of the Armed Forces.

(b) SALES OF RATIONS, STORES, UNIFORMS, AND RELATED EQUIPMENT.—The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

(c) SURVIVING SPOUSES' RIGHTS.—Rights extended to members of the uniformed services in this section are extended to their surviving spouses and to such others as are designated by the Secretary concerned.

SEC. 265. [33 U.S.C. 3075] AUTHORITY TO USE APPROPRIATED FUNDS FOR TRANSPORTATION AND REIMBURSEMENT OF CERTAIN ITEMS.

(a) **TRANSPORTATION OF EFFECTS OF DECEASED OFFICERS.**—In the case of an officer who dies on active duty, the Secretary may provide, from appropriations made available to the Administration, transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of that officer to the official residence of record of that officer. However, upon application by the dependents of such an officer, such transportation may be provided to such other location as may be determined by the Secretary.

(b) **REIMBURSEMENT FOR SUPPLIES FURNISHED BY OFFICERS TO DISTRESSED AND SHIPWRECKED PERSONS.**—Under regulations prescribed by the Secretary, appropriations made available to the Administration may be used to reimburse an officer for food, clothing, medicines, and other supplies furnished by the officer—

- (1) for the temporary relief of distressed persons in remote localities; or
- (2) to shipwrecked persons who are temporarily provided for by the officer.

SEC. 266. [33 U.S.C. 3076] PRESENTATION OF UNITED STATES FLAG UPON RETIREMENT.

(a) **PRESENTATION OF FLAG UPON RETIREMENT.**—Upon the release of a commissioned officer from active commissioned service for retirement, the Secretary shall present a United States flag to the officer.

(b) **MULTIPLE PRESENTATIONS NOT AUTHORIZED.**—An officer is not eligible for presentation of a flag under subsection (a) if the officer has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) **NO COST TO RECIPIENT.**—The presentation of a flag under this section shall be at no cost to the recipient.

SEC. 267. [33 U.S.C. 3077] EDUCATION LOAN REPAYMENT PROGRAM.

(a) **AUTHORITY TO REPAY EDUCATION LOANS.**—For the purpose of maintaining adequate numbers of officers of the commissioned officer corps of the Administration on active duty who have skills required by the commissioned officer corps, the Secretary may repay, in the case of a person described in subsection (b), a loan that—

- (1) was used by the person to finance education; and
- (2) was obtained from a governmental entity, private financial institution, educational institution, or other authorized entity.

(b) **ELIGIBLE PERSONS.**—To be eligible to obtain a loan repayment under this section, a person must—

- (1) satisfy one of the requirements specified in subsection (c);
- (2) be fully qualified for, or hold, an appointment as a commissioned officer in the commissioned officer corps of the Administration; and
- (3) sign a written agreement to serve on active duty, or, if on active duty, to remain on active duty for a period in addition to any other incurred active duty obligation.

(c) **ACADEMIC AND PROFESSIONAL REQUIREMENTS.**—One of the following academic requirements must be satisfied for purposes of determining the eligibility of an individual for a loan repayment under this section:

(1) The person is fully qualified in a profession that the Secretary has determined to be necessary to meet identified skill shortages in the commissioned officer corps of the Administration.

(2) The person is enrolled as a full-time student in the final year of a course of study at an accredited educational institution (as determined by the Secretary of Education) leading to a degree in a profession that will meet identified skill shortages in the commissioned officer corps of the Administration.

(d) **LOAN REPAYMENTS.**—

(1) **IN GENERAL.**—Subject to the limits established under paragraph (2), a loan repayment under this section may consist of the payment of the principal, interest, and related expenses of a loan obtained by a person described in subsection (b).

(2) **LIMITATION ON AMOUNT.**—For each year of obligated service that a person agrees to serve in an agreement described in subsection (b)(3), the Secretary may pay not more than the amount specified in section 2173(e)(2) of title 10, United States Code.

(e) **ACTIVE DUTY SERVICE OBLIGATION.**—

(1) **IN GENERAL.**—A person entering into an agreement described in subsection (b)(3) incurs an active duty service obligation.

(2) **LENGTH OF OBLIGATION DETERMINED UNDER REGULATIONS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the length of the obligation under paragraph (1) shall be determined under regulations prescribed by the Secretary.

(B) **MINIMUM OBLIGATION.**—The regulations prescribed under subparagraph (A) may not provide for a period of obligation of less than one year for each maximum annual amount, or portion thereof, paid on behalf of the person for qualified loans.

(3) **PERSONS ON ACTIVE DUTY BEFORE ENTERING INTO AGREEMENT.**—The active duty service obligation of persons on active duty before entering into the agreement shall be served after the conclusion of any other obligation incurred under the agreement.

(4) **CONCURRENT COMPLETION OF SERVICE OBLIGATIONS.**—A service obligation under this section may be completed concurrently with a service obligation under section 216.

(f) **EFFECT OF FAILURE TO COMPLETE OBLIGATION.**—

(1) **ALTERNATIVE OBLIGATIONS.**—An officer who is relieved of the officer's active duty obligation under this section before the completion of that obligation may be given any alternative obligation, at the discretion of the Secretary.

(2) **REPAYMENT.**—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (b)(3), or the alternative obligation imposed

under paragraph (1), shall be subject to the repayment provisions under section 216.

(g) RULEMAKING.—The Secretary shall prescribe regulations to carry out this section, including—

- (1) standards for qualified loans and authorized payees; and
- (2) other terms and conditions for the making of loan repayments.

SEC. 268. [33 U.S.C. 3078] INTEREST PAYMENT PROGRAM.

(a) AUTHORITY.—The Secretary may pay the interest and any special allowances that accrue on one or more student loans of an eligible officer, in accordance with this section.

(b) ELIGIBLE OFFICERS.—An officer is eligible for the benefit described in subsection (a) while the officer—

- (1) is serving on active duty;
- (2) has not completed more than three years of service on active duty;
- (3) is the debtor on one or more unpaid loans described in subsection (c); and
- (4) is not in default on any such loan.

(c) STUDENT LOANS.—The authority to make payments under subsection (a) may be exercised with respect to the following loans:

- (1) A loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.).
- (2) A loan made under part D of such title (20 U.S.C. 1087a et seq.).
- (3) A loan made under part E of such title (20 U.S.C. 1087aa et seq.).

(d) MAXIMUM BENEFIT.—Interest and any special allowance may be paid on behalf of an officer under this section for any of the 36 consecutive months during which the officer is eligible under subsection (b).

(e) COORDINATION WITH SECRETARY OF EDUCATION.—

(1) IN GENERAL.—The Secretary shall consult with the Secretary of Education regarding the administration of this section.

(2) REIMBURSEMENT AUTHORIZED.—The Secretary is authorized to reimburse the Secretary of Education—

(A) for the funds necessary to pay interest and special allowances on student loans under this section (in accordance with sections 428(o), 455(l), and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(o), 1087e(l), and 1087dd(j)); and

(B) for any reasonable administrative costs incurred by the Secretary of Education in coordinating the program under this section with the administration of the student loan programs under parts B, D, and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.).

(f) SPECIAL ALLOWANCE DEFINED.—In this section, the term “special allowance” means a special allowance that is payable

under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087–1).

SEC. 269. [33 U.S.C. 3079] STUDENT PRE-COMMISSIONING EDUCATION ASSISTANCE PROGRAM.

(a) **AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.**—For the purpose of maintaining adequate numbers of officers of the commissioned officer corps of the Administration on active duty, the Secretary may provide financial assistance to a person described in subsection (b) for expenses of the person while the person is pursuing on a full-time basis at an accredited educational institution (as determined by the Secretary of Education) a program of education approved by the Secretary that leads to—

- (1) a baccalaureate degree in not more than five academic years; or
- (2) a postbaccalaureate degree.

(b) **ELIGIBLE PERSONS.**—

(1) **IN GENERAL.**—A person is eligible to obtain financial assistance under subsection (a) if the person—

(A) is enrolled on a full-time basis in a program of education referred to in subsection (a) at any educational institution described in such subsection;

(B) meets all of the requirements for acceptance into the commissioned officer corps of the Administration except for the completion of a baccalaureate degree; and

(C) enters into a written agreement with the Secretary described in paragraph (2).

(2) **AGREEMENT.**—A written agreement referred to in paragraph (1)(C) is an agreement between the person and the Secretary in which the person—

(A) agrees to accept an appointment as an officer, if tendered; and

(B) upon completion of the person's educational program, agrees to serve on active duty, immediately after appointment, for—

(i) up to three years if the person received less than three years of assistance; and

(ii) up to five years if the person received at least three years of assistance.

(c) **QUALIFYING EXPENSES.**—Expenses for which financial assistance may be provided under subsection (a) are the following:

(1) Tuition and fees charged by the educational institution involved.

(2) The cost of educational materials.

(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

(4) Such other expenses as the Secretary considers appropriate.

(d) **LIMITATION ON AMOUNT.**—The Secretary shall prescribe the amount of financial assistance provided to a person under subsection (a), which may not exceed the amount specified in section 2173(e)(2) of title 10, United States Code, for each year of obligated service that a person agrees to serve in an agreement described in subsection (b)(2).

(e) DURATION OF ASSISTANCE.—Financial assistance may be provided to a person under subsection (a) for not more than five consecutive academic years.

(f) SUBSISTENCE ALLOWANCE.—

(1) IN GENERAL.—A person who receives financial assistance under subsection (a) shall be entitled to a monthly subsistence allowance at a rate prescribed under paragraph (2) for the duration of the period for which the person receives such financial assistance.

(2) DETERMINATION OF AMOUNT.—The Secretary shall prescribe monthly rates for subsistence allowance provided under paragraph (1), which shall be equal to the amount specified in section 2144(a) of title 10, United States Code.

(g) INITIAL CLOTHING ALLOWANCE.—

(1) TRAINING.—The Secretary may prescribe a sum which shall be credited to each person who receives financial assistance under subsection (a) to cover the cost of the person's initial clothing and equipment issue.

(2) APPOINTMENT.—Upon completion of the program of education for which a person receives financial assistance under subsection (a) and acceptance of appointment in the commissioned officer corps of the Administration, the person may be issued a subsequent clothing allowance equivalent to that normally provided to a newly appointed officer.

(h) TERMINATION OF FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall terminate the assistance provided to a person under this section if—

(A) the Secretary accepts a request by the person to be released from an agreement described in subsection (b)(2);

(B) the misconduct of the person results in a failure to complete the period of active duty required under the agreement; or

(C) the person fails to fulfill any term or condition of the agreement.

(2) REIMBURSEMENT.—The Secretary may require a person who receives assistance described in subsection (c), (f), or (g) under an agreement entered into under subsection (b)(1)(C) to reimburse the Secretary in an amount that bears the same ratio to the total costs of the assistance provided to that person as the unserved portion of active duty bears to the total period of active duty the officer agreed to serve under the agreement.

(3) WAIVER.—The Secretary may waive the service obligation of a person through an agreement entered into under subsection (b)(1)(C) if the person—

(A) becomes unqualified to serve on active duty in the commissioned officer corps of the Administration because of a circumstance not within the control of that person; or

(B) is—

(i) not physically qualified for appointment; and

(ii) determined to be unqualified for service in the commissioned officer corps of the Administration because of a physical or medical condition that was not the result of the person's own misconduct or grossly negligent conduct.

(4) OBLIGATION AS DEBT TO UNITED STATES.—An obligation to reimburse the Secretary imposed under paragraph (2) is, for all purposes, a debt owed to the United States.

(5) DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11, United States Code, that is entered less than five years after the termination of a written agreement entered into under subsection (b)(1)(C) does not discharge the person signing the agreement from a debt arising under such agreement or under paragraph (2).

(i) REGULATIONS.—The Secretary may prescribe such regulations and orders as the Secretary considers appropriate to carry out this section.

(j) CONCURRENT COMPLETION OF SERVICE OBLIGATIONS.—A service obligation under this section may be completed concurrently with a service obligation under section 216.

SEC. 269A. [33 U.S.C. 3079a] TREATMENT OF COMMISSION IN COMMISSIONED OFFICER CORPS AS EMPLOYMENT IN ADMINISTRATION FOR PURPOSES OF CERTAIN HIRING DECISIONS.

(a) IN GENERAL.—In any case in which the Secretary accepts an application for a position of employment with the Administration and limits consideration of applications for such position to applications submitted by individuals serving in a career or career-conditional position in the competitive service within the Administration, the Secretary shall deem an officer who has served as an officer in the commissioned officer corps of the Administration for at least three years to be serving in a career or career-conditional position in the competitive service within the Administration for purposes of such limitation.

(b) CAREER APPOINTMENTS.—If the Secretary selects an application submitted by an officer described in subsection (a) for a position described in such subsection, the Secretary shall give such officer a career or career-conditional appointment in the competitive service, as appropriate.

(c) COMPETITIVE SERVICE DEFINED.—In this section, the term “competitive service” has the meaning given the term in section 2102 of title 5, United States Code.

Subtitle F—Repeals and Conforming Amendments

[Omitted-Amendments]